

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emlyn Cameron	Team: Squad #12	CCRB Case #: 201905372	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/19/2019 10:30 AM	Location of Incident: 85 Stuyvesant Place; 120th Precinct stationhouse	Precinct: 120	18 Mo. SOL 12/19/2020	EO SOL 8/5/2021	
Date/Time CV Reported Wed, 06/19/2019 4:20 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 06/19/2019 4:20 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Olivia Scalici	02389	961252	120 PCT
2. POM Vincent Mclaughlin	04409	959809	120 PCT
3. LT Steven Nichols	00000	917139	120 PCT
4. POM Daniel Filak	22972	950410	120 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Albert Ng	02020	933092	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Steven Nichols	Force: At 85 Stuyvesant Place in Staten Island, Lieutenant Steven Nichols used physical force against § 87(2)(b)	
B.LT Steven Nichols	Force: At 85 Stuyvesant Place in Staten Island, Lieutenant Steven Nichols restricted § 87(2)(b)'s breathing	
C.LT Steven Nichols	Force: At 85 Stuyvesant Place in Staten Island, Lieutenant Steven Nichols hit § 87(2)(b) against the ground.	
D.LT Steven Nichols	Discourtesy: At 85 Stuyvesant Place in Staten Island, Lieutenant Steven Nichols spoke discourteously to § 87(2)(b)	
E.LT Steven Nichols	Abuse: At 85 Stuyvesant Place in Staten Island, Lieutenant Steven Nichols refused to provide his name to § 87(2)(b)	
F.LT Steven Nichols	Abuse: At 85 Stuyvesant Place in Staten Island, Lieutenant Steven Nichols refused to provide his shield number to § 87(2)(b)	
G.LT Steven Nichols	Force: At 85 Stuyvesant Place in Staten Island, Lieutenant Steven Nichols used a chokehold against § 87(2)(b)	
H.POF Olivia Scalici	Abuse: At 85 Stuyvesant Place in Staten Island, Police Officer Olivia Scalici searched § 87(2)(b)	
I.POM Vincent Mclaughlin	Abuse: At 85 Stuyvesant Place in Staten Island, Police Officer Vincent Mclaughlin refused to provide his name to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
J.POM Vincent McLaughlin	Abuse: At 85 Stuyvesant Place in Staten Island, Police Officer Vincent McLaughlin refused to provide his shield number to § 87(2)(b)	
K.POF Olivia Scalici	Abuse: En route to the 120th Precinct stationhouse, Police Officer Olivia Scalici refused to provide her name to § 87(2)(b)	
L.POF Olivia Scalici	Abuse: En route to the 120th Precinct stationhouse, Police Officer Olivia Scalici refused to provide her shield number to § 87(2)(b)	
M.POM Vincent McLaughlin	Abuse: En route to the 120th Precinct stationhouse, Police Officer Vincent McLaughlin did not obtain medical treatment for § 87(2)(b)	
N.POM Vincent McLaughlin	Abuse: At the 120 Precinct stationhouse, Police Officer Vincent McLaughlin did not obtain medical treatment for § 87(2)(b)	
O.POM Daniel Filak	Abuse: At the 120 Precinct stationhouse, Police Officer Daniel Filak did not obtain medical treatment for § 87(2)(b)	

Case Summary

On June 19, 2019, § 87(2)(b) called the CCRB to file this complaint.

On June 19, 2019, at approximately 10:30AM, § 87(2)(b) got into a physical altercation with an unidentified individual at the deli at 85 Stuyvesant Place in Staten Island. Lieutenant Steven Nichols of the 120th Precinct came to 85 Stuyvesant Place and attempted to break up the fight. He tackled § 87(2)(b) on the ground (**Allegation A: Force**, § 87(2)(g) put his arms around § 87(2)(b)'s chest while lifting him from the ground, causing § 87(2)(b)'s breathing to be restricted (**Allegation B: Force**, § 87(2)(g) LT Nichols threw § 87(2)(b) to the ground (**Allegation C: Force**, § 87(2)(g) LT Nichols told § 87(2)(b) "Shut the fuck up" (**Allegation D: Discourtesy**, § 87(2)(g) § 87(2)(b) requested LT Nichols' name and badge number, and LT Nichols replied with the same profane statement (**Allegation E: Abuse of Authority**, § 87(2)(g) **Allegation F: Abuse of Authority**, § 87(2)(g) LT Nichols' put his arm around § 87(2)(b)'s throat (**Allegation G: Force**, § 87(2)(g)

Then Sergeant Albert Ng and another officer and, shortly thereafter, PO Vincent McLaughlin and PO Olivia Scalici, of the 120th Precinct, arrived at the 85 Stuyvesant Place to assist LT Nichols. PO Scalici searched § 87(2)(b)'s bag (**Allegation H: Abuse of Authority**, § 87(2)(g) § 87(2)(b) asked PO McLaughlin for his name and badge number, which PO McLaughlin did not offer (**Allegation I: Abuse of Authority**, § 87(2)(g) **Allegation J: Abuse of Authority**, § 87(2)(g)

The officers walked § 87(2)(b) to the 120th Precinct stationhouse. During the walk § 87(2)(b) asked PO Scalici for her name and badge number, which she did not offer, and requested medical attention, which PO McLaughlin refused to obtain (**Allegation K: Abuse of Authority**, § 87(2)(g) **Allegation L: Abuse of Authority**, § 87(2)(g) **Allegation M: Abuse of Authority**, § 87(2)(g) After arriving at the stationhouse, § 87(2)(b) was placed in a cell and requested medical treatment again. PO McLaughlin refused again (**Allegation N: Abuse of Authority**, § 87(2)(g) Later § 87(2)(b) requested medical attention from PO Daniel Filak, the holding cell officer, who also refused (**Allegation O: Abuse of Authority**, § 87(2)(g)

Body-Worn Camera (BWC) footage was received in this case. The BWC footage was recorded by PO McLaughlin (Board Review 08; Board Review 09; summarized in Board Review 15 and Board Review 16).

Findings and Recommendations

Allegation (A) Force: At 85 Stuyvesant Place in Staten Island, Lieutenant Steven Nichols used physical force against § 87(2)(b)
Allegation (B) Force: At 85 Stuyvesant Place in Staten Island, Lieutenant Steven Nichols restricted § 87(2)(b)'s breathing.
Allegation (C) Force: At 85 Stuyvesant Place in Staten Island, Lieutenant Steven Nichols hit § 87(2)(b) against the ground.

It is undisputed that on June 19, 2019, at approximately 10:30AM, PO Nichols, who was dressed in plainclothes, entered 85 Stuyvesant Place in Staten Island where an altercation was ongoing between § 87(2)(b) and an unidentified male. PO Nichols physically intervened in the altercation.

In his sworn statement to the CCRB, § 87(2)(b) stated (Board Review 01) that the unidentified male had followed him into 85 Stuyvesant Place after trying to attack him with a broom and they

had subsequently struggled on the deli's floor. LT Nichols ran into 85 Stuyvesant place and told the unidentified male to get off of § 87(2)(b). Once the unidentified male complied, LT Nichols tackled § 87(2)(b) who was on the ground, and used both arms wrapped around § 87(2)(b)'s chest to lift him into the air. The pressure on § 87(2)(b)'s chest from LT Nichols' arms made it difficult for § 87(2)(b) to breathe. After this, LT Nichols threw § 87(2)(b) down so that the right side of § 87(2)(b)'s ribcage contacted the ground. LT Nichols then placed his knee on § 87(2)(b)'s back and placed § 87(2)(b)'s arm behind § 87(2)(b)'s back.

No BWC footage received by the investigation shows § 87(2)(b)'s interactions with officers at 85 Stuyvesant Place in Staten Island (Board Review 08, Board Review 09).

LT Nichols stated (Board Review 03) that he entered the location and saw that § 87(2)(b) was rolling on the ground with the unidentified male and the two were attempting to punch one another. LT Nichols pulled the unknown individual off § 87(2)(b). § 87(2)(b) thrashed on the floor and yelled. LT Nichols did not tackle § 87(2)(b). He knelt beside § 87(2)(b) and grabbed § 87(2)(b)'s shirt. LT Nichols' arm kept § 87(2)(b) from rising. Lieutenant Nichols restrained § 87(2)(b) for approximately one minute during which time the only physical contact he had with § 87(2)(b) was grabbing the front of § 87(2)(b)'s shirt. § 87(2)(b) responded by thrashing his body and screaming incoherently.

PO Scalici stated (Board Review 04) that when she arrived at 85 Stuyvesant Place, LT Nichols was standing and no one was making physical contact § 87(2)(b) who was on his back on the ground, rolling around and yelling.

SGT Ng stated (Board Review 05) that when he arrived at 85 Stuyvesant Place, LT Nichols was standing between § 87(2)(b) and the unknown individual and LT Nichols' hand was extended and against § 87(2)(b)'s chest. LT Nichols did not place his knee on § 87(2)(b)'s back and did not have any other physical interaction with § 87(2)(b). SGT Ng could not recall if LT Nichols took § 87(2)(b) to the ground.

PO McLaughlin stated (Board Review 06) that when he arrived LT Nichols was inside and had separated § 87(2)(b) and the unknown individual with whom § 87(2)(b) had been fighting. He could not recall if LT Nichols was holding onto either man, nor could he recall if LT Nichols used a takedown, or any other force, on § 87(2)(b). He did not recall if LT Nichols placed his knee on § 87(2)(b)'s back.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (D) Discourtesy: At 85 Stuyvesant Place in Staten Island, Lieutenant Steven Nichols spoke discourteously to § 87(2)(b).

Allegation (E) Abuse of Authority: At 85 Stuyvesant Place in Staten Island, Lieutenant Steven Nichols refused to provide his name to § 87(2)(b).

Allegation (F) Abuse of Authority: At 85 Stuyvesant Place in Staten Island, Lieutenant Steven Nichols refused to provide his shield number to § 87(2)(b).

§ 87(2)(b) asked if LT Nichols was a police officer and LT Nichols said, “Shut the fuck up.” § 87(2)(b) asked for LT Nichols name and shield number. LT Nichols again told him to, “Shut the fuck up.”

LT Nichols stated that and did not say, “Shut the fuck up” or use profanity with § 87(2)(b) at any point. LT Nichols then identified himself as a police officer, but § 87(2)(b) never requested LT Nichols’ name.

SGT Ng could not recall if § 87(2)(b) requested any officer’s name or shield number, or if LT Nichols said, “Shut the fuck up.”

PO McLaughlin did not recall if LT Nichols used profanity in speaking to § 87(2)(b).

§ 87(2)(g)

Allegation (G) Force: At 85 Stuyvesant Place in Staten Island, Lieutenant Steven Nichols used a chokehold against § 87(2)(b).

In his CCRB statement, § 87(2)(b) stated that after LT Nichols told him to “shut the fuck up” a second time, LT Nichols put his arm around § 87(2)(b)’s throat for three to four seconds.

LT Nichols stated that he did not make contact § 87(2)(b)’s throat and did not choke § 87(2)(b). § 87(2)(b) never asked for medical attention or complained of restricted breathing.

Sgt Ng stated Lieutenant Nichols had no other physical interaction with § 87(2)(b) other than placing his hand in § 87(2)(b)’s chest area.

PO Scalici did not observe anyone in physical contact with § 87(2)(b) and noted that § 87(2)(b) never complained of an officer making contact with his neck or restricting his breathing.

PO McLaughlin did not recall if LT Nichols touched § 87(2)(b)’s neck.

§ 87(2)(g)

In his CCRB statement, § 87(2)(b) stated that other officers arrived and then conferred with the unknown individual he had been fighting. The unknown individual told the police § 87(2)(b) had stolen the unknown individual's headphones, but he had not actually seen § 87(2)(b) pick them up. Another person inside 85 Stuyvesant Place told the officers that § 87(2)(b) had stolen the headphones. § 87(2)(b) who was in handcuffs, said, "I do not consent to being searched." PO Scalici placed both hands inside § 87(2)(b)'s bag. She found no headphones during the search.

PO McLaughlin stated that he and PO Scalici took § 87(2)(b)'s bookbag and PO Scalici put her hands inside it. She found several sets of headphones, including headphones similar to those the unknown individual said had been stolen by § 87(2)(b) but none were the same headphones exactly.

NYPD Patrol Guide Procedure 208-03 Arrest General Processing states that officers should “immediately field search/frisk [a] prisoner and search [the] adjacent vicinity for weapons, evidence, and/or contraband” (Board Review 17).

§ 87(2)(g)

§ 87(2)(g)

Allegation (I) Abuse of Authority: At 85 Stuyvesant Place in Staten Island, Police Officer Vincent McLaughlin refused to provide his name to § 87(2)(b).

Allegation (J) Abuse of Authority: At 85 Stuyvesant Place in Staten Island, Police Officer Vincent McLaughlin refused to provide his shield number to § 87(2)(b).

§ 87(2)(b) stated that as he was being searched by Officer Scalici he asked PO McLaughlin, “Officer, may I have your badge number and your name please?” PO McLaughlin ignored his request.

PO Scalici stated that § 87(2)(b) did not request any officer’s name or shield number inside of 85 Stuyvesant Place. Other officers did not recall if § 87(2)(b) requested an officer’s name or badge number at 85 Stuyvesant Place.

§ 87(2)(g)

Allegation (K) Abuse of Authority: En route to the 120th Precinct stationhouse, Police Officer Olivia Scalici refused to provide her name to § 87(2)(b).

Allegation (L) Abuse of Authority: En route to the 120th Precinct stationhouse, Police Officer Olivia Scalici refused to provide her shield number to § 87(2)(b).

In his sworn statement to the CCRB, § 87(2)(b) stated that as he was being escorted to the 120th Precinct stationhouse, he asked PO Scalici for her name and shield number and was ignored.

PO McLaughlin’s first BWC recording (Board Review 08) shows PO McLaughlin escorting § 87(2)(b) to the 120th Precinct stationhouse. The recording does not depict § 87(2)(b) requesting PO Scalici’s name or shield number.

PO Scalici stated that § 87(2)(b) did not request her name or shield number while walking from the deli to the stationhouse, nor did he request any other officer’s name or shield number while the officers escorted him.

§ 87(2)(g)

Allegation (M) Abuse of Authority: En route to the 120th Precinct stationhouse, Police Officer Vincent McLaughlin failed to secure medical treatment for § 87(2)(b).

In his sworn statement to the CCRB, § 87(2)(b) stated that he requested medical attention when he got to the stationhouse, but PO McLaughlin said the officers were going to give him a Desk Appearance Ticket and were trying to expedite § 87(2)(b)’s stay at the stationhouse. § 87(2)(b) did

not specify where he was in the stationhouse when he made this request. § 87(2)(b) clarified in a follow up telephone statement that he requested medical attention during the walk to the stationhouse, when he was approximately 120 feet from the stationhouse rear entrance. § 87(2)(b) did not receive medical attention at the stationhouse.

PO McLaughlin's first BWC recording (Board Review 08) shows PO McLaughlin escorting § 87(2)(b) into the stationhouse. § 87(2)(b) does not request medical attention during the portion of the video with audio in the approximately four minutes the video captures of his time in the stationhouse. The time stamp at the end of the first video is 10:58:43 GMT - 4.

PO McLaughlin's second BWC recording (Board Review 09) shows PO McLaughlin and PO Scalici escorting § 87(2)(b) upstairs in the stationhouse. At 00:01:35 minutes in the video, § 87(2)(b) requests water. He does not request medical attention during the video. The video shows approximately two minutes of § 87(2)(b)'s time in the stationhouse, starting at time stamp 10:59:59 GMT - 4.

PO McLaughlin stated that he did not recall if § 87(2)(b) asked for any medical attention or made any other requests at or en route to the stationhouse and did not recall whether he told § 87(2)(b) that § 87(2)(b)'s detention would be prolonged if § 87(2)(b) got an ambulance.

PO Scalici and SGT Ng stated that § 87(2)(b) did not request medical attention at or en route to the stationhouse. SGT Ng did not see anyone tell § 87(2)(b) that his stay in the stationhouse would be prolonged if he asked for an ambulance.

The Command Log obtained by the investigation (Board Review 10) had all arrest entries redacted, including the entry for § 87(2)(b)'s arrest. This includes information in the entry relating to § 87(2)(b)'s physical condition when brought to the stationhouse.

§ 87(2)(g)

§ 87(2)(g)

Allegation (N) Abuse of Authority: At the 120th Precinct stationhouse, Police Officer Vincent McLaughlin failed to secure medical treatment for § 87(2)(b).

Allegation (O) Abuse of Authority: At the 120th Precinct stationhouse, Police Officer Daniel Filak failed to secure medical treatment for § 87(2)(b).

§ 87(2)(b) stated that while he was inside the cell, he experienced pain, and asked PO McLaughlin for medical attention. PO McLaughlin refused and said it would prolong § 87(2)(b)'s stay in the stationhouse. At approximately 2:30PM, § 87(2)(b) issued a third request for medical attention, this one to PO Filak, who stood outside of his cell. PO Filak ignored § 87(2)(b).

As discussed under Allegation M, PO McLaughlin stated that he did not recall if § 87(2)(b) ever made a request for medical attention.

PO Filak stated (Board Review 11) that he was assigned as the 120th Precinct cell attendant. PO Filak did not recognize a picture of § 87(2)(b) PO Filak stated no prisoner requested medical treatment on the incident, date, and he did not observe any officer refuse to obtain medical treatment from any prisoner on the incident date.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to one CCRB complaint and has been named as a victim in two allegations (Board Review 12):
 - § 87(2)(b)
- Lieutenant Steven Nichols has been a member of service for 23 years and this is the first CCRB complaint to which he has been a subject.
- Police Officer Olivia Scalici has been a member of the service for four years and this is the first CCRB complaint to which she has been a subject.
- Police Officer Vincent McLaughlin has been a member of the service for four years and this is the first CCRB complaint to which he has been a subject.
- Police Officer Daniel Filak has been a member of the service for eight years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- On May 12, 2020, the Office of the Comptroller of the City of New York stated that no claim had been filed regarding this incident by § 87(2)(b) (Board Review 13)
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 12

Investigator:	<u>Emlyn Cameron</u>	<u>Investigator Emlyn Cameron</u>	<u>05/20/2020</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Carlmais Johnson</u>	<u>IM Carlmais Johnson</u>	<u>June 24, 2020</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date